

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 923

**Introduced by Assembly Members Firebaugh, Chavez, and
Wesson**

*(Coauthors: Assembly Members Calderon, Corbett, Diaz, Dymally,
Goldberg, Jerome Horton, Laird, Leno, Montanez, Nunez, Reyes,
Ridley-Thomas, and Steinberg)*

(Coauthor: Senator Romero)

February 20, 2003

An act to amend Section 6353 of, to add Sections 7105, 17053.15, and 23608.15 to, and to repeal Sections 6356.5, 6356.6, 6357.1, and 6358.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 923, as amended, Firebaugh. State taxes: health care.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including exemptions for farm equipment and machinery, timber harvesting equipment, racehorse breeding stock, diesel fuel used in farming, and liquefied petroleum gas for use in producing and harvesting agricultural products.

This bill would repeal those exemptions.

The Personal Income Tax Law and the Corporation Tax law authorizes various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2004, for qualified taxpayers who provide health care coverage for their agricultural employees. This bill would require that the aggregate amount of credits allocated to all taxpayers for each taxable year equal the *sum of the* estimated amount of the increase for that same taxable year in sales and use tax revenue due to the repeal by this bill of sales and use tax exemptions *and the amount of specified costs to administer the credit*. This bill would provide that each qualified taxpayer receive a credit equal to the taxpayer's pro rata share of the aggregate amount, based upon the amount of health care coverage costs paid or incurred by the taxpayer. *This bill would authorize the Employment Development Department to charge qualified taxpayers applying for the credit a fee for the department's costs incurred in administering the credit.*

The bill would impose various duties on the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department in administering the bill, as provided.

This bill would take effect immediately as a tax levy, but specified provisions would become operative on January 1, 2004.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6353 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 6353. There are exempted from the taxes imposed by this part
- 4 the gross receipts derived from the sales, furnishing, or service of
- 5 and the storage, use, or other consumption in this state of, all of the
- 6 following:
- 7 (a) Gas, electricity, and water, including steam and geothermal
- 8 steam, brines, and heat, when delivered to consumers through
- 9 mains, lines, or pipes.
- 10 (b) (1) Liquefied petroleum gas, delivered to a qualified
- 11 residence by the seller, that is sold for household use in the
- 12 qualified residence, provided the liquefied petroleum gas is
- 13 delivered into a tank with a storage capacity for liquefied
- 14 petroleum gas that is equal to or greater than 30 gallons. This



1 subdivision may not be construed to provide any exemption from
2 any tax levied by a city, county, or city and county pursuant to
3 Section 7284.3, or any successor to that section.

4 (2) For purposes of this subdivision, “qualified residence”
5 means a primary residence, not serviced by gas mains and pipes.

6 (c) Water, when sold to an individual in bulk quantities of 50
7 gallons or more, for general household use in his or her residence
8 if the residence is located in an area not serviced by mains, lines
9 or pipes.

10 (d) Exhaust steam, waste steam, heat, or resultant energy,
11 produced in connection with cogeneration technology, as defined
12 in Section 25134 of the Public Resources Code.

13 SEC. 2. Section 6356.5 of the Revenue and Taxation Code is
14 repealed.

15 SEC. 3. Section 6356.6 of the Revenue and Taxation Code is
16 repealed.

17 SEC. 4. Section 6357.1 of the Revenue and Taxation Code is
18 repealed.

19 SEC. 5. Section 6358.5 of the Revenue and Taxation Code is
20 repealed.

21 SEC. 6. Section 7105 is added to the Revenue and Taxation
22 Code, to read:

23 7105. The State Board of Equalization, in consultation with
24 the Department of Finance, shall estimate the annual increase in
25 the amount of sales and use tax revenue that is attributable in 2004
26 and each year thereafter to the repeal of the sales and use tax
27 exemptions by the act adding this section. The board shall provide
28 the estimate to the Employment Development Department on or
29 before January 15 of the year next following the year for which the
30 estimate is made.

31 SEC. 7. Section 17053.15 is added to the Revenue and
32 Taxation Code, to read:

33 17053.15. (a) For each taxable year beginning on or after
34 January 1, 2004, there shall be allowed as a credit against the “net
35 tax,” as defined in Section 17039, to a qualified taxpayer who
36 provides *qualified* health care coverage to his or her agricultural
37 employees.

38 (b) The amount of the credit allowed to a qualified taxpayer
39 under subdivision (a) shall be an amount allocated to that taxpayer

1 by the Employment Development Department pursuant to
2 subdivision (d).

3 (c) For purposes of this section:

4 (1) “Agricultural employee” means an employee as defined in
5 subdivision (b) of Section 1140.4 of the Labor Code.

6 (2) “Qualified health care coverage” means health care
7 coverage equivalent to a health care service plan under the
8 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
9 (commencing with Section 1340) of Division 2 of the Health and
10 Safety Code), or to a plan that would qualify under the Employee
11 Retirement Income Security Act of 1974 (P.L. 93-406), as
12 amended, and provides substantially the same minimum benefits
13 as required under the Knox-Keene Health Care Service Plan Act
14 of 1975.

15 (3) “Qualified taxpayer” means a taxpayer who either
16 employs agricultural employees directly or is a labor contractor
17 that employs agricultural employees for use by farmers, who does
18 both of the following:

19 (A) Provides those employees with qualified health care
20 coverage in an amount equal to at least 80 percent of the cost of that
21 coverage.

22 (B) Applies to the Employment Development Department, in
23 the form and manner prescribed by the department, pursuant to
24 subdivision (d) for the credit allowed pursuant to this section. A
25 qualified taxpayer will be eligible for the credit for a taxable year
26 only if a completed application for that taxable year is filed with
27 the Employment Development Department on or before the
28 January 31 next following the taxable year for which the credit is
29 claimed.

30 (d) The Employment Development Department shall do all of
31 the following:

32 (1) Allocate an aggregate amount of tax credits to all qualified
33 taxpayers under this section and Section 23608.15 for each taxable
34 year beginning on or after January 1, 2004, in an amount equal to
35 the *sum of the* estimated amount of the increase of sales and use tax
36 revenue provided to the Employment Development Department
37 pursuant to Section 7105 for the calendar year that coincides with
38 or ends within the taxable year *and the amount of the department’s*
39 *costs to administer this section.*

1 (2) For each taxable year, allocate to each qualified taxpayer a
2 credit amount computed as follows:

3 (A) Divide the *total* amount paid or incurred during the taxable
4 year by a qualified taxpayer for qualified health care coverage *for*
5 *the agricultural employee and the employee's dependents* by the
6 sum of all the amounts so paid or incurred by all qualified
7 taxpayers during the taxable year for qualified health care
8 coverage.

9 (B) Multiply the total amount to be allocated for the taxable
10 year pursuant to paragraph (1) by the number calculated under
11 subparagraph (A) and round the result to the nearest dollar.

12 (C) Allocate to the taxpayer a credit in an amount equal to the
13 amount calculated under subparagraph (B).

14 (3) Provide written notification to each qualified taxpayer of
15 his or her credit amount by February 28 of the next following
16 taxable year for which the credit is claimed.

17 (4) Provide an annual list to the Franchise Tax Board,
18 preferably on computer readable form, and in the form and manner
19 agreed upon by the Franchise Tax Board and the Employment
20 Development Department, of qualified taxpayers and amount of
21 credit allocated to each.

22 (5) Notify all known qualified taxpayers regarding the
23 availability of the credit.

24 (6) Send each known qualified taxpayer an application to
25 participate in the credit allocation for each taxable year to which
26 this section applies.

27 (7) Promulgate rules or regulations as deemed necessary to
28 implement its duties under this section.

29 (e) In the case where the credit allowed by this section exceeds
30 the "net tax," the excess may be carried over to reduce the "net
31 tax" in the following year, and the succeeding five years if
32 necessary, until the credit is exhausted.

33 (f) Any taxpayer that willfully fails to supply any information
34 under this section with the intent to evade any tax imposed by this
35 part, or who, willfully and with like intent, makes, renders, signs,
36 or verifies any false statement or application under this section or
37 supplies any false or fraudulent information under this section, is
38 punishable as provided by Section 19706, except that the fine
39 imposed may be up to treble the amount specified by Section
40 19706.

1 (g) *The Employment Development Department may charge*
2 *each qualified taxpayer applying for the credit a fee toward the*
3 *department's costs of administering the credit.*

4 (h) *The Franchise Tax Board, with the cooperation of the*
5 *Employment Development Department, shall report annually to*
6 *the Legislature regarding the utilization of the tax credits under*
7 *this section.*

8 SEC. 8. Section 23608.15 is added to the Revenue and
9 Taxation Code, to read:

10 23608.15. (a) For each taxable year beginning on or after
11 January 1, 2004, there shall be allowed as a credit against the
12 "tax," as defined in Section 23036, to a qualified taxpayer who
13 provides *qualified* health care coverage to its agricultural
14 employees.

15 (b) The amount of the credit allowed to a qualified taxpayer
16 under ~~by~~ subdivision (a) shall be an amount allocated to that
17 taxpayer by the Employment Development Department pursuant
18 to subdivision (d).

19 (c) For purposes of this section:

20 (1) "Agricultural employee" means an employee as defined in
21 subdivision (b) of Section 1140.4 of the Labor Code.

22 (2) "Qualified health care coverage" means health care
23 coverage equivalent to a health care service plan under the
24 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
25 (commencing with Section 1340) of Division 2 of the Health and
26 Safety Code), or to a plan that would qualify under the Employee
27 Retirement Income Security Act of 1974 (P.L. 93-406), as
28 amended, and provides substantially the same minimum benefits
29 as required under the Knox-Keene Health Care Service Plan Act
30 of 1975.

31 (3) "Qualified taxpayer" means a taxpayer who either
32 employs agricultural employees directly or is a labor contractor
33 that employs agricultural employees for use by farmers, who does
34 both of the following:

35 (A) Provides those employees with qualified health care
36 coverage in an amount equal to at least 80 percent of the cost of that
37 coverage.

38 (B) Applies to the Employment Development Department, in
39 the form and manner prescribed by the department, pursuant to
40 subdivision (d) for the credit allowed pursuant to this section. A

1 qualified taxpayer will be eligible for the credit for a taxable year
2 only if a completed application for that taxable year is filed with
3 the Employment Development Department on or before the
4 January 31 next following the taxable year for which the credit is
5 claimed.

6 (d) The Employment Development Department shall do all of
7 the following:

8 (1) Allocate an aggregate amount of tax credits to all qualified
9 taxpayers under this section and Section 17053.15 for each taxable
10 year beginning on or after January 1, 2004, in an amount equal to
11 the *sum of the* estimated amount of the increase of sales and use tax
12 revenue provided to the Employment Development Department
13 pursuant to Section 7105 for the calendar year that coincides with
14 or ends within the taxable year *and the amount of the department's*
15 *costs to administer this section.*

16 (2) For each taxable year, allocate to each qualified taxpayer a
17 credit amount computed as follows:

18 (A) Divide the *total* amount paid or incurred during the taxable
19 year by the qualified taxpayer for qualified health care coverage
20 *for the agricultural employee and the employee's dependents* by
21 the sum of all the amounts so paid or incurred by all qualified
22 taxpayers during the taxable year for qualified health care
23 coverage.

24 (B) Multiply the total amount to be allocated for the taxable
25 year pursuant to paragraph (1) by the number calculated under
26 subparagraph (A) and round the result to the nearest dollar.

27 (C) Allocate to the taxpayer a credit in an amount equal to the
28 amount calculated under subparagraph (B).

29 (3) Provide written notification to each qualified taxpayer of its
30 credit amount by the February 28 next following the taxable year
31 for which the credit is claimed.

32 (4) Provide an annual list to the Franchise Tax Board,
33 preferably on computer readable form, and in the form and manner
34 agreed upon by the Franchise Tax Board and the Employment
35 Development Department, of qualified taxpayers and amount of
36 credit allocated to each.

37 (5) Notify all known qualified taxpayers regarding the
38 availability of the credit.

1 (6) Send each known qualified taxpayer an application to
2 participate in the credit allocation for each taxable year to which
3 this section applies.

4 (7) Promulgate rules or regulations as deemed necessary to
5 implement its duties under this section.

6 (e) In the case where the credit allowed by this section exceeds
7 the “tax,” the excess may be carried over to reduce the “tax” in
8 the following year, and the succeeding five years if necessary, until
9 the credit is exhausted.

10 (f) Any taxpayer that willfully fails to supply any information
11 under this section with the intent to evade any tax imposed by this
12 part, or who, willfully and with like intent, makes, renders, signs,
13 or verifies any false statement or application under this section or
14 supplies any false or fraudulent information under this section, is
15 punishable as provided by Section 19706, except that the fine
16 imposed may be up to treble the amount specified by Section
17 19706.

18 (g) *The Employment Development Department may charge*
19 *each qualified taxpayer applying for the credit a fee toward the*
20 *department’s costs of administering the credit.*

21 (h) *The Franchise Tax Board, with the cooperation of the*
22 *Employment Development Department, shall report annually to*
23 *the Legislature regarding the utilization of the tax credits under*
24 *this section.*

25 SEC. 9. This act provides for a tax levy within the meaning of
26 Article IV of the Constitution and shall go into immediate effect.
27 However, Sections 1 to 5, inclusive, of this act shall become
28 operative on January 1, 2004.

